

Service Date: April 14, 2004

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER OF Joint Petition for)	UTILITY DIVISION
Immediate Suspension of Intermodal Number)	
Portability Requirements for Members of)	
Montana Independent Telecommunications)	
Systems and Montana Telecommunications)	DOCKET NO. D2004.3.37
Association Pending Consideration of Unresolved)	ORDER NO. 6553
Issues Associated with the Implementation of)	
Intermodal Local Number Portability)	

IN THE MATTER OF the Petition of)	
Ronan Telephone Company and Hot Springs)	UTILITY DIVISION
Telephone Company For Suspension of)	
Local Number Portability Implementation)	DOCKET NO. D2004.3.35
Pursuant to 47 U.S.C. Section 251(f)(2))	ORDER NO. 6554
)	

**ORDER GRANTING INTERIM SUSPENSION OF LOCAL NUMBER
PORTABILITY REQUIREMENTS AND
ORDER CLOSING DOCKET**

I. FINDINGS OF FACT

1. On March 11, 2004, the Montana Independent Telecommunications Systems (“MITS”) and Montana Telecommunications Association (“MTA”) on behalf of their member companies, filed a Joint Petition for Immediate Suspension of Intermodal Number Portability (“LNP”) requirements, imposed by the Federal Communications Commission (“FCC”) in its Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, CC Docket No. 95-116, releases November 10, 2003. The MITS and MTA Joint Petition was assigned Docket No. D2004.3.37.

2. On March 10, 2004, Ronan Telephone Company (“Ronan”) and Hot Springs Telephone Company (“Hot Springs”) filed a Petition for Suspension of Local Number Portability Implementation Pursuant to 47 U.S.C. § 251(f)(2) and a Motion for Interim Suspension of LNP

Pending Completion of Docket by Ronan and Hot Springs. The Petition and the Motion were both assigned Docket No. D2004.3.35.

3. MITS and MTA separately filed Petitions for Suspension of Local Number Portability requirements on a long term basis; those petitions were assigned Docket No. D2004.3.44 (MITS) and D2004.3.39 (MTA). Those dockets are consolidated with the Ronan Petition for long term suspension of the LNP requirements by separate order.

4. On March 18, 2004, the Montana Public Service Commission ("Commission" or "PSC") issued a Notice of filing and Notice of Opportunity to Intervene and Comment in D2004.3.35 and D2004.3.37, seeking intervention in the requests for immediate interim suspension of the FCC's LNP requirements. At a duly noticed work session held on March 29, 2004, the Commission took action on the requests for immediate interim suspension of the LNP requirements, providing parties an opportunity to file briefs in opposition to the requests for immediate suspension on or before April 5, 2004.

5. Western Wireless was the only party to file a brief in opposition to the request for interim suspension of the LNP requirements. At a duly noticed work session held on April 6, 2004, the Commission took action on the request for interim suspension of the LNP requirements, granting the request for immediate interim suspension of the FCC's LNP requirements with respect to the petitioning carriers, pending the outcome of the Commission's decision on the requests for long term suspension of the LNP requirements.

6. Petitioners have submitted affidavits and persuasive argument that absent an immediate suspension, Petitioners will be required to spend significant time and money attempting to comply with the FCC's LNP requirements by the May 24, 2004 deadline. The Commission finds that such expenditures of resources would impose adverse economic impacts on users of telecommunications services in Montana generally; that such requirements are unduly economically burdensome; the costs of LNP implementation are unfairly imposed on the rural LECs; and the imposition of the FCC's LNP requirements are contrary to the public interest and anti competitive in that the costs of implementation must be borne by the rural LECs, which are prohibited by the FCC from requiring the wireless carriers to enter into interconnection agreements for purposes of fairly distributing the costs of implementing the LNP requirements.

II. CONCLUSIONS OF LAW

7. The Commission has jurisdiction to immediately suspend the requirements of Local Number Portability imposed on rural carriers by the FCC pending the Commission's decision on the request for long term suspension of the LNP requirements. 47 U.S.C. §251(f)(2); MCA §69-3-834(5)(b).

8. The members of the Petitioners MITS and MTA and the Petitioners Ronan and Hot Springs are Montana local exchange carriers within the definition of rural carriers as defined by 47 U.S.C. § 153(47) and MCA §69-3-803(12).

9. The Commission has jurisdiction over these Petitions pursuant to 47 U.S.C. § 251, MCA §69-3-832 and §§69-3-829 through 839.

10. The United States Congress enacted the Telecommunications Act of 1996 to encourage competition in the telecommunications industry. Congress gave responsibility for much of the implementation of the 1996 Act to the states, to be handled by the state agency with regulatory control over telecommunications carriers. *See generally*, Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (*amending sections of the Communications Act of 1934, 47 U.S.C. §§ 151 et seq.*). The PSC is the state agency charged with regulating telecommunications carriers in Montana and properly exercises jurisdiction in this docket pursuant to Title 69, Chapter 3, MCA.

11. Adequate public notice and an opportunity to be heard has been provided to all interested parties in these Dockets, as required by the Montana Administrative Procedure Act, Title 2, Chapter 4, MCA.

III. ORDER

THEREFORE, based upon the foregoing, it is ORDERED THAT:

- 1) The FCC's LNP requirements are suspended with respect to petitioners Ronan, Hot Springs, and the member carriers of MITS and MTA, effective immediately, pending resolution of the Petitions for long term suspension of the LNP requirements by the FCC.

- 2) The immediate interim suspension of the FCC's LNP requirements is effective at a minimum until the Commission issues its decision in the consolidated docket addressing the petitions for long term suspension of the LNP requirements, which will be within 180 days of March 10, 2004.
- 3) Dockets No. D2004.3.35 and D2004.3.37 are hereby closed.
- 4) Ronan and Hot Springs' Petition for Suspension of LNP requirements on a long term basis, filed in D2004.3.35, are consolidated with the MITS and MTA petitions by separate order.
- 5) The Commissioner's Conclusions and Order here in no way are determinative of or binding on its decision in the consolidated docket addressing the requests for long term suspension of the LNP requirements.

DONE AND DATED this 6th day of April 2004, by a vote of 5 to 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

BOB ROWE, Chairman

THOMAS J. SCHNEIDER, Vice Chairman

MATT BRAINARD, Commissioner

GREG JERGESON, Commissioner

JAY STOVALL, Commissioner

ATTEST:

Connie Jones
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.